



Filing Receipt

Received - 2022-12-16 04:49:19 PM

Control Number - 53336

ItemNumber - 31

DOCKET NO. 53336

**APPLICATION OF BIG EASY AGUA § PUBLIC UTILITY COMMISSION
LLC FOR A CERTIFICATE OF §
CONVENIENCE AND NECESSITY IN § OF TEXAS
COLORADO COUNTY §**

JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED NOTICE OF APPROVAL

I. INTRODUCTION

On March 11, 2022, Big Easy Agua LLC (Big Easy) filed an application to obtain a water Certificate of Convenience and Necessity (CCN) in Colorado County. The requested service area consists of 1,039 acres and 0 connections.

On November 22, 2022, the administrative law judge filed Order No. 9 requiring the parties to file joint proposed findings of fact and conclusions of law by December 16, 2022. Therefore, this pleading is timely filed.

II. MOTION TO ADMIT EVIDENCE

Staff (Staff) of the Public Utility Commission of Texas (Commission) and Big Easy (collectively, the Parties) move to admit the following evidence into the record of this proceeding:

1. Big Easy's application and all attachments, filed on March 11, 2022 (Interchange Item Nos. 1 and 2);
2. Commission Staff's Recommendation on Administrative Completeness, Proposed Notice, and Proposed Procedural Schedule, filed on April 11, 2022 (Interchange Item No. 4);
3. Big Easy's proof of notice, along with letter explaining delay in submitting proof of notice, filed on June 10, 2022 and July 19, 2022, respectively (Interchange Item Nos. 8 and 9);
4. Commission Staff's Supplemental Recommendation on Notice, filed on July 21, 2022 (Interchange Item No. 10);
5. Big Easy's supplemental information, filed on August 18 and 19, 2022 (Interchange Item Nos. 18, 19, and 20);
6. Big Easy's consent form, filed on September 19, 2022;

7. Big Easy's supplemental financial information, filed on November 4, 2022 (Interchange Item No. 25);
8. Big Easy's Response to Staff's First RFI, filed on November 9, 2022 (Interchange Item No. 26);
9. Big Easy's updated financial guarantee, filed on November 11, 2022 (Interchange Item No. 27);
10. Commission Staff's Final Recommendation, filed on December 2, 2022 (Interchange Item No. 29); and
11. The proposed final map, certificate, and tariff attached to this pleading.

III. JOINT PROPOSED NOTICE OF APPROVAL

The Parties have agreed on the attached proposed notice of approval, which would approve Big Easy's application to obtain a water CCN. The total area for certification would include approximately 1,039 acres in Colorado County. The parties request that the Commission adopt the findings of fact, conclusions of law, and ordering paragraphs from the attached proposed notice of approval.

IV. CONCLUSION

The parties respectfully request that the items listed above be admitted into the record of this proceeding as evidence and that the attached proposed notice of approval be adopted.

Dated: December 16, 2022

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Keith Rogas
Division Director

John Harrison
Managing Attorney

/s/ Ian Groetsch

Ian Groetsch
State Bar No. 24078599
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7465
(512) 936-7268 (facsimile)
Ian.Groetsch@puc.texas.gov

BIG EASY AGUA LLC

Shelley Young
Authorized Representative for Big Easy Agua LLC

DOCKET NO. 53336

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on December 16, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Ian Groetsch

Ian Groetsch

DOCKET NO. 53336

APPLICATION OF BIG EASY AGUA § PUBLIC UTILITY COMMISSION
LLC FOR A CERTIFICATE OF §
CONVENIENCE AND NECESSITY IN § OF TEXAS
COLORADO COUNTY §

PROPOSED NOTICE OF APPROVAL

This Notice of Approval addresses the application of Big Easy Agua LLC (Big Easy) to obtain a water certificate of convenience and necessity (CCN) in Colorado County. The Commission grants Big Easy water CCN number 13303.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. Big Easy Agua LLC is a Texas limited liability company registered with the Texas secretary of state under file number 0804293314.

Application

2. On March 11, 2022, Big Easy filed the application at issue in this proceeding requesting to obtain a water CCN in Colorado County.
3. Big Easy filed supplemental information on September 18 and 19 and November 4 and 11, 2022.
4. The requested area includes approximately 1,039 acres of uncertificated area and 0 current customer connections.
5. The requested area is located approximately 6.5 miles northeast of downtown Columbus, Texas, and is generally bounded on the north approximately 1 mile south of Burnes Mill Road; on the east by Brunes Mill Road; on the south approximately 3.25 miles north of Highway 71; and on the west approximately 1 mile east of Brushy Road.
6. In Order No. 2 filed on April 11, 2022, the administrative law judge (ALJ) found the application administratively complete.

Notice

7. On June 10, 2022, Big Easy filed the affidavit of Shelly Young, an engineer for Big Easy, attesting that notice was mailed to all neighboring utilities, affected landowners, and political subdivision on April 13, 2022.
8. On June 10, 2022, Big Easy filed a publisher's affidavit attesting to publication of notice in the *Colorado County Citizen*, a newspaper of general circulation in Colorado County, on April 20 and 27, 2022.
9. On July 19, 2022, Big Easy filed a letter explaining why it was delayed in filing the notice affidavits on time.
10. In Order No. 4 filed on July 21, 2022, the ALJ found notice sufficient.

Map, Tariff, and Certificate

11. On September 19, 2022, Commission Staff emailed the proposed map, certificate, and tariff to Big Easy.
12. On September 19, 2022, Big Easy filed its consent to the proposed map, certificate, and tariff.
13. The map, certificate, and corrected tariff were included as attachments to the parties' December 16, 2022 joint motion to admit evidence and proposed Notice of Approval.

Evidentiary Record

14. On December 16, 2022, the parties filed an agreed motion to admit evidence and proposed Notice of Approval.
15. In Order No. __ filed on _____, 202_, the ALJ admitted the following evidence into the record of this proceeding: (a) Big Easy's application and all attachments, filed on March 11, 2022; (b) Commission Staff's Recommendation on Administrative Completeness, Proposed Notice, and Proposed Procedural Schedule, filed on April 11, 2022; (c) Big Easy's proof of notice, along with letter explaining delay in submitting proof of notice, filed on June 10, 2022 and July 19, 2022, respectively; (d) Commission Staff's Supplemental Recommendation on Notice, filed on July 21, 2022; (e) Big Easy's

supplemental information, filed on August 18 and 19, 2022; (f) Big Easy's consent form, filed on September 19, 2022; (g) Big Easy's supplemental financial information, filed on November 4, 2022; (h) Big Easy's Response to Staff's First RFI, filed on November 9, 2022; (i) Big Easy's updated financial guarantee, filed on November 11, 2022; (j) Commission Staff's Final Recommendation, filed on December 2, 2022; and (k) the proposed final map, certificate, and tariff filed on December 16, 2022.

Adequacy of Existing Service

16. There are no current customers in the requested area.
17. There is no existing water service provided to the requested area.

Need for Service

18. There is a need for service as there are potential new customers in the requested area.
19. Future residents of the requested area will have a need for service.

Effect of Approving the Application and Granting the Certificate

20. Granting the certificate will obligate Big Easy to provide adequate and continuous service to the requested area.
21. Future residents in the requested area will have a water provider available when they need to request water service and will not have to install or operate individual water wells.
22. Notice was provided to landowners, county authorities, municipalities, retail public utilities within two miles from the outer boundary of the requested area and affected parties. No adverse comments, opt out requests, or motions to intervene were filed in this docket; therefore, there will be no effect on landowners or public utilities in the proximate area.

Ability to Serve: Technical and Managerial

23. Big Easy is a new entrant to the utility service industry; however, Big Easy plans on hiring utility professionals to help operate the system and to assist in regulatory compliance.
24. Big Easy will employ a licensed and experienced water operator to operate the PWS.

25. Big Easy will be capable of providing drinking water that meets the requirements of Texas Health and Safety Code, Chapter 341, and TWC, Chapter 13, and will have access to an adequate supply of water.
26. Big Easy will have sufficient capacity to serve the requested area and adequate facilities for the provision of water utility service.
27. Big Easy has the managerial and technical ability to serve the requested area.

Feasibility of Obtaining Service from an Adjacent Retail Public Utility

28. Big Easy received a request for service for the requested area from a developer.
29. There are no retail public water utilities within one half mile of the outer boundary of the requested area.
30. Big Easy requested service from providers in the proximate area and none were able to provide service in the requested area.
31. Big Easy has approved TCEQ plans to build facilities in the requested area to serve future customers and will have sufficient capacity to serve the area.
32. It is not feasible to obtain service from an adjacent retail public utility.

Ability to Serve: Financial Ability and Stability

33. Big Easy has provided a written financial guarantee stating that Big Easy's affiliate, Billy Brown, is capable, available, and willing to cover the expected temporary cash shortages and pay for capital improvements of Big Easy. Billy Brown also provided 3 years of historical financial statements and satisfies the leverage test with a debt to equity ratio of 0.17, as provided in confidential attachment FB-1
34. Big Easy's affiliate has sufficient cash on hand to cover any projected operations and maintenance shortages during the first five years of operations following the issuance of the CCN, satisfying the operations test as provided in confidential attachment FB-1.
35. Big Easy provided a written guarantee from its affiliate to pay for cash shortages and capital improvement cost. The guarantee additionally states the distribution system has already been installed and most of the water plant equipment has been ordered and paid

for. Big Easy's affiliate also provided a letter from its bank indicating funds are available to cover the projected cash shortages and capital improvement cost as indicated in confidential attachment FB-1.

36. Big Easy has the financial capability and stability to provide continuous and adequate service to the requested area.

Financial Assurance

37. There is no need to require Big Easy to provide a bond or other financial assurance to ensure continuous and adequate service to the requested area.

Regionalization or Consolidation

38. It is necessary for Big Easy to build a physically separate water system in order to provide service to the requested area.
39. Regionalization or consolidation is not feasible as there are no neighboring retail public utilities willing or able to serve the requested area.

Environmental Integrity and Effect on the Land

40. All plans for construction will be reviewed by the respective counties and all flood plain and drainage requirements will be met.
41. The environmental integrity of the land will be minimally affected as the water treatment plant is built and distribution lines are installed to provide service to the requested area.

Improvement in Service or Lowering Cost to Consumers

42. This factor is not applicable because there are no customers currently receiving service in the requested area.
43. Granting Big Easy a CCN will make service available to potential future customers because there are currently no water providers in the requested area.
44. Big Easy filed a rate study and pro forma financial statements to support its proposed rates.
45. Big Easy provided all assumptions and calculations supporting its proposed rates.
46. Big Easy filed a proposed tariff.

47. Big Easy provided an estimated completion date for the water system.
48. Service and billing will commence upon the approval of this application by the Commission and completion of the water system.

Informal Disposition

49. More than 15 days have passed since the completion of notice provided in this docket.
50. No person filed a protest or motion to intervene.
51. Big Easy and Commission Staff are the only parties to this proceeding.
52. No party requested a hearing and no hearing is necessary.
53. Commission Staff recommended approval of the application.
54. The decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority over this proceeding under Texas Water Code (TWC) §§ 13.041, 13.241, 13.244, and 13.246.
2. Once the application is approved, Big Easy will be a retail public utility as defined by TWC § 13.002(19) and 16 TAC § 24.3(31).
3. Big Easy provided notice of the application that complies with TWC § 13.246 and 16 TAC § 24.235.
4. Big Easy's application meets the requirements of TWC § 13.244 and 16 TAC § 24.25.
5. The Commission processed the application as required by the TWC, the Administrative Procedure Act,¹ and Commission rules.
6. After consideration of the factors in TWC § 13.246(c) and 16 TAC § 24.277(e), Big Easy demonstrated adequate financial, managerial, and technical capability to provide

¹ Texas Gov't Code §§ 2001.001-.903.

continuous and adequate service to the requested area in Colorado County as required by TWC § 13.241(a) and 16 TAC § 24.227.

7. Big Easy meets the requirements of TWC § 13.241(b) to provide water utility service.
8. It is not necessary for Big Easy to provide a bond or other financial assurance under TWC § 13.246(d).
9. Big Easy must record a certified copy of the approved map and certificate, along with a boundary description of the relevant service area, in the real property records of Colorado County within 31 days of receiving this Notice of Approval and submit to the Commission evidence of the recording, as required by TWC § 13.257(r) and (s).
10. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission approves the application.
2. The Commission grants Big Easy water CCN number 13303 to include the requested area described in this Notice of Approval and shown on the attached map.
3. The Commission grants the certificate attached to this Notice of Approval.
4. The Commission approves the tariff attached to this Notice of Approval.
5. Big Easy must serve every customer and applicant for service within the approved area under water CCN number 13303 who requests water service and meets the terms of Big Easy's water service, and such service must be continuous and adequate.
6. Big Easy must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Colorado County affected by the application and submit to the Commission evidence of the recording no later than 45 days after receipt of this Notice of Approval.
7. Big Easy must provide notice to the Commission once billing for water service begins under 16 TAC § 24.25(b)(1)(B)(vi).

8. Big Easy must file a water rate application with the Commission within 18 months from the date water service begins, as required by 16 TAC § 24.25(b)(1)(C).
9. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the __ day of ____ 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

CHRISTINA DENMARK
ADMINISTRATIVE LAW JUDGE

Dated: December 16, 2022

Respectfully Submitted,

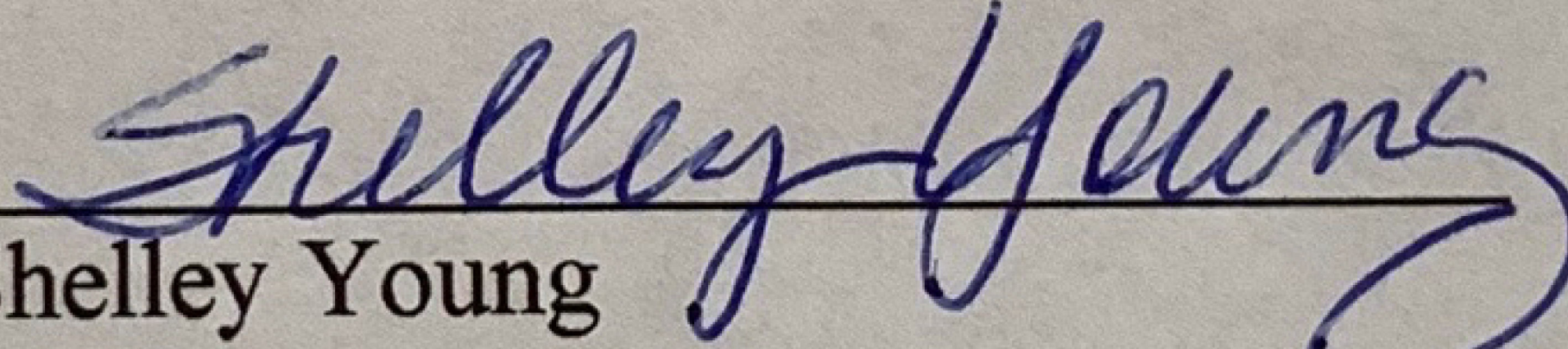
**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Keith Rogas
Division Director

John Harrison
Managing Attorney

/s/ Ian Groetsch
Ian Groetsch
State Bar No. 24078599
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7465
(512) 936-7268 (facsimile)
Ian.Groetsch@puc.texas.gov

BIG EASY AGUA LLC


Shelley Young
Authorized Representative for Big Easy Agua LLC

DOCKET NO. 53336

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on December 16, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Ian Groetsch
Ian Groetsch